

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6868

BILL NUMBER: HB 1551

NOTE PREPARED: Jan 6, 2015

BILL AMENDED:

SUBJECT: DNA for Felony Arrestees.

FIRST AUTHOR: Rep. Bauer

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill has the following provisions:

Required Samples: It requires every person arrested for a felony after June 30, 2015, to submit a DNA sample, and specifies that the sample may be taken only by buccal swab.

Expungement: It provides for the expungement of a DNA sample taken from the person if the person is acquitted of all felony charges, all felony charges are dismissed, or no charges have been filed after 30 days.

Provision of Form: It also requires the officer who obtains a DNA sample from a person to inform the person of the right to DNA expungement and to provide the person with a form that may be used for DNA expungement, and permits the use of evidence other than a court order for expungement.

Fee and Additional Appropriation: The bill increases the DNA sample processing fee from \$2 to \$4, and it allocates \$500,000 semiannually to hold harmless all funds and to provide an additional amount to the DNA Processing Fund.

Bail: The bill specifies that the discovery of DNA evidence tending to show previously unknown crimes committed by a person on bail may lead to revocation of bail or an increase in the amount of bail.

Effective Date: July 1, 2015.

Summary of NET State Impact: Increasing the DNA Sample Processing Fee is estimated to yield new revenue of \$1.08 M that would be deposited into the state General Fund. The bill specifies that an additional \$1 M above current allocations would transfer from the state General Fund to nine dedicated funds under IC 33-37-7-9. This will result in a net increase of \$80,000 to the state General Fund.

Of the additional \$1 M transfer, the majority, \$999,762, would be deposited into the DNA Sample Processing Fund. The estimated additional expenditures for the Indiana State Police (ISP) to collect and analyze DNA samples for all arrested adults is estimated at \$840,044. This would provide \$159,718 in additional funding in the DNA Sample Processing Fund administered by the ISP.

Summary of Fiscal Effects				
	FY 2016	FY 2017	FY 2018	FY 2019
Transfer - State GF to DNA Sample Processing Fund	\$999,762	\$999,762	\$999,762	\$999,762
Added Costs for State Police	840,044	840,044	840,044	840,044
Net Effect on Indiana State Police	\$159,718	\$159,718	\$159,718	\$159,718

Explanation of State Expenditures: *Summary* - This bill potentially increases costs for the ISP to collect and analyze additional DNA samples from any person arrested for a felony crime for an act committed after June 30, 2015. Using the annual number of samples currently collected and analyzed, the current cost of kits, shipping, and analysis, and the number of felony cases filed, it is estimated that the added costs for the State Police are about \$840,044 annually for all arrested adults. Additional staffing also may be required to provide support for analysts and prepare paperwork for expungements.

Additional Information: Arrested Adults: Current law requires offenders convicted of a felony after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. In-house costs of \$6 for the collection kits and shipping to the laboratory, \$20 for the staff examination and discard of duplicates, and the analysis and typing of new specimens were applied. A projection was made of the additional costs to sample and analyze DNA samples from all arrested adults by increasing the average annual samples received and analyzed between 2010 and 2014 (as of December 24, 2014) by 162%. The average of the results, \$840,044, is used as the estimated increase in cost for ISP.

Arrested Adults Calculating Additional Samples: On average between CY 2010 and CY 2014 (as of December 24, 2014), the ISP received 27,028. The average annual number of felony cases filed between 2009 and 2013 is 70,979, which is 43,950 more or a 162% increase in the number of samples received.

However, using the number of cases filed may overstate the additional samples that will be received for several reasons;

- (1) There is not a one-to-one relationship between arrests and cases filed. More than one case may be filed against a person in a single year.
- (2) An offender may already have a sample in the DNA system.
- (3) New technology is alerting staff to samples already on file.
- (4) While the number of samples received is decreasing each year, the number of cases filed is increasing.

Arrested Adult Expungement: Besides the costs for collection and analysis, the cost to expunge the record of DNA samples of persons who were arrested and whose case was either acquitted or dismissed would likely increase. LSA anticipates that the records and DNA samples can be expunged with current resources. ISP reports that very few DNA samples are currently expunged because most convictions are not overturned on appeal. Since arrests are not as likely to lead to a conviction, it is likely that ISP will need to spend more time expunging the paperwork and destroying the samples.

LSA used (1) the percentage of all felony cases that were filed in the state court system in CY 2011 and later dismissed and (2) acquittal rates published by the Bureau of Justice Statistics for felony cases in the 75 most populous counties in the United States to estimate that about 20% of all arrests would be either dismissed or acquitted. Assuming that 20% of all arrests where DNA sample is taken and processed will be expunged, an additional 9 samples a day would be expunged.

Under current law, ISP would only expunge cases if the person who has been arrested requests expungement. The person could only request that the samples be expunged if the arrested person is not charged, the person is acquitted of all charges, the conviction on which the authority for inclusion is based has been reversed, the case is dismissed, or no charges have been filed against the person within 30 days.

Explanation of State Revenues: *DNA Sample Processing Fee:* An increase of the DNA Sample Processing fee from \$2 to \$4 would potentially increase revenue which is deposited in the state General Fund by \$1.08M. Overall, the bill is estimated to result in a net increase to the state General Fund of \$80,000 because an additional \$1 M would be transferred from the state General Fund to various other programs. [Under current law, a transfer of \$9,277,023 is made twice during the year. The bill would increase the biannual payment to \$9,777,023.]

Allocation from State General Fund: The bill would change the semi-annual percentages allocated to each of nine dedicated funds from the state General Fund transfer and increase the amount allocated semi-annually by \$500,000.

Additional Information: The DNA Sample Processing fee is assessed on a person who is found guilty of a crime (felony or misdemeanor), an infraction, or an ordinance violation. Using the five-year revenue history, the average annual collection is \$1.08 M. A doubling of the fee is expected to double the amount of revenue received.

Explanation of Local Expenditures: *Added Collection Costs for County Sheriffs:* County sheriffs collecting the samples would incur additional costs to train staff to collect samples and ensure that the chain of evidence is not broken. Sheriff's staff collect saliva from an arrested person by placing a cotton swab in the arrested person's mouth.

The officer, employee, or person who obtains a DNA sample from a person is to inform the person of the person's right to DNA expungement and provide the person with a form that may be used for DNA expungement.

Bail Revocation: If bail is revoked because of the discovery of previously unknown crimes committed by a person on bail, the number of people incarcerated in a county jail awaiting trial could increase. The average daily cost of incarceration in a county jail is \$44.

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Kristine Crouch, CODIS Administrator, ISP; *Indiana Judicial Report*, 2011; *Indiana Handbook of Taxes, Revenues, and Appropriations*, 2014; State Court Administrator, *2012 and 2013 Trial Court Statistics*.

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